

# Protecting Your Investment

Understanding  
Home Financing  
and Avoiding  
Foreclosure



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MASSACHUSETTS ASSOCIATION OF REALTORS®

# Staying Out Of Trouble

## “An Ounce of Prevention”

Buying a home is a major part of the American Dream; it can also be the biggest financial decision you will ever make. It is important to take the time to fully understand the financial implications of your mortgage before you sign it. Your mortgage documents are a legally binding contract between you and your lender and failure to understand all of the terms of those documents could bring unwanted consequences down the road.

There is a wide selection of mortgage products available today, including traditional fixed rate loans, as well as a dizzying array of adjustable rate loan options. In recent years, an increased percentage of borrowers in Massachusetts, as well as across the country, have opted for adjustable rate mortgages (ARMs) which allowed them to “stretch” their income in order to qualify for a home. Many others rolled over student loans, credit cards or other debt into mortgages in the hopes of easing their financial burdens. Unfortunately, many Massachusetts residents are discovering that these decisions are fast becoming a financial nightmare.

# Foreclosures in Massachusetts

If you are considering buying a home, or refinancing your current mortgage, consider the following:

- **Do not sign any contract until you have thoroughly read and understood all of its provisions, notices and terms.** Have a trusted advisor, such as an attorney, review your loan documents and explain any language that may be confusing or unclear.
- **Ask questions when considering which type of mortgage may be right for you.** Questions such as:
  - What will my monthly payment be?
  - Can my monthly payments increase?
  - Under what circumstances could my payments increase (i.e. such as late payments)?
  - Will rates go up after specific periods of time?
  - How much could my monthly payment increase?
  - Will I have to pay a penalty if I sell or refinance my house? How much would that be?
- **Review your financial ability to afford a house.** Do you have sufficient savings in an emergency fund to help supplement your family income in the event of a job loss or illness? Do you have the resources to handle a major home repair if needed? Should you consider a less expensive home or should you defer buying a home until you can save a little more money?
- **Keep copies of all loan documents given to you and store them in a safe, secure place.**

If you are currently having trouble paying your mortgage or expect problems in the future, it's crucial that you **get help now**. If you fall behind and don't take action, your lender will take steps to foreclose on your home. If that happens, you may lose your home and all of the money you have already invested in it.

## GET HELP NOW

1. **Don't ignore the problem.** Open the letters from your lender and answer their phone calls. Be honest about your situation as early as you can. If you communicate early enough with your lender, you have a much greater hope to work together to find a solution.
2. **Find your original loan documents.** You will need to understand the exact terms of your loan agreement so that you can better evaluate your options.
3. **Speak to qualified advisors.** Don't try to handle this alone. Many state and federal entities offer free guidance on this issue. These advisors can help you examine your budget, sort out your options and prepare you to speak with your lender. In the event your lender is not willing to help, they may be able to help you find another source of financing. Please refer to the list of advisors and resources on page 7 of this brochure for more information about how to begin.
4. **Understand your options.** Once you understand the terms of your loan and have spoken with trusted advisors you will be in a position to seek a solution. Your lender may be willing to offer loan modification options.





**5. Avoid scams.** Be wary of responding to advertisements such as “We Buy Houses for Cash” or “Avoid Foreclosure.” Those who place such ads in search for homes to buy far below market value, or to convince sellers to sign over ownership as part of a complex refinancing arrangement, are known as “rescuers.” These rescuers often attempt to make a quick profit or commit outright fraud by preying on a homeowner’s financial and emotional distress. Be suspicious of anyone who approaches you by letter, by phone or who simply shows up on your doorstep.

In 2007, the Attorney General issued emergency regulations under the Consumer Protection Act (Massachusetts General Laws chapter 93A) banning foreclosure rescue schemes. The regulations prohibit predatory, for-profit foreclosure rescue transactions - where the homeowner transfers title to the rescuer while maintaining a future interest, including a lease interest or right to reacquire the home. Foreclosure rescue transactions between family members or arranged without profit by a nonprofit community or housing organization are not banned under these regulations.



## REVIEW YOUR OPTIONS

**1. Forbearance plan.** You may be able to stave off the foreclosure process by working with the lender to create a temporary repayment plan (also referred to as a “forbearance plan”). In a best-case scenario, the homeowner may be able to bring the loan current over a period of time and either keep the property or at least allow time to market and sell the property at a fair market value without the pressure or cost of an impending foreclosure action. Some lenders will enter into forbearance plans that do not fully bring the loan current if they are aware the homeowner is marketing the property for sale. But if your monthly payment is beyond your means, a forbearance or repayment plan may not be feasible and you should pursue a “loan modification.”

**2. Loan modification.** In some instances, a lender may be willing to rewrite the terms of the homeowner’s loan in order to address a delinquency. A loan modification is designed to make your monthly payment affordable. It is intended to serve as a long-term solution when the monthly payments under the original loan terms are unsustainable for the borrower. Loan modifications may require the homeowner to pay a processing fee, but already-distressed borrowers should strive to avoid or minimize fees.

**3. Refinancing.** In the past year, both the federal and the Massachusetts government have worked to develop programs that would allow certain borrowers at risk of default to refinance their homes via governmentally insured programs. The homeowner may be able to avail him or herself of such a program.

**4. Bankruptcy.** Bankruptcy might be an option for a homeowner to consider. The filing of a bankruptcy petition automatically stops a lender’s foreclosure action until such time as the lender obtains the Bankruptcy Court’s permission to proceed.





## THE LAW IN MASSACHUSETTS

Governor Deval Patrick signed landmark mortgage lending legislation in 2007 which offers relief to homeowners facing foreclosure. The new law offers several important protections for homeowners.

Starting in May 2008, the law requires that mortgage holders file a 90-day notice of intent to foreclose with the homeowner and the Massachusetts Division of Banks.

In addition to new licensing and oversight requirements and new education centers to assist homebuyers, the law creates a 90-day “Right to Cure” which means that the homeowner has 90 days to bring mortgage payments up-to-date. Notice of the Right to Cure is filed with the Division of Banks.

Finally, the law limits the use of subprime adjustable rate mortgage for first time homebuyers unless they: a) affirmatively opt into a subprime adjustable rate product; and b) get in-person counseling from a certified counselor.

## THE ECONOMICS OF FORECLOSURE

**Foreclosure is a devastating tragedy.** For a family, it brings economic loss, displacement and emotional stress. Foreclosure presents an economic burden to the original lender (or subsequent investors in the loan) and it has been associated with decreased home values, increased crime and neighborhood blight. It is for all these reasons that every effort should be made to attempt to find a solution to the crisis.

**Foreclosures cost lenders and investors more than loan modification.** Loan modifications typically preserve the value of the property the lender took as collateral. In a foreclosure, the lender receives liquidation value rather than fair market value; faces long delays in the process; incurs expenses in fixing up the property; and needs to pay for legal and selling costs.

**Preventing foreclosures will preserve home prices and assist the overall housing market.** Foreclosures depress housing prices overall. Millions of families not facing foreclosure—those who have faithfully paid their mortgages on time—lose equity through property value declines every time there is a foreclosure in their neighborhood. Averting 600,000 foreclosures will save an additional \$72.5 billion in wealth lost by American families not facing foreclosure. This in turn will save local government property tax revenues, as well as the significant costs of police and administrative support that foreclosures require.

**Consider steps you might take to improve your cash-flow situation.** Even if these efforts don’t completely cover your budgetary shortfall, taking strong and decisive action demonstrates to your lender the level of commitment you are willing to make towards the goal of saving your home.

## **COUNSELING AND OTHER ADVOCACY RESOURCES**

### **Neighborworks® and Homeownership Preservation Foundation Hotline**

Available in English and Spanish

(888) 995-HOPE (4673)

[www.995hope.org](http://www.995hope.org)

### **Foreclosure Relief Pro Bono Attorney Hotline**

Legal Advocacy and Resource Center

(800) 342-5297 or (617) 603-1700

### **The Division of Banks Mortgage Hotline**

(800) 495-BANK (2265)

[www.mass.gov/dob](http://www.mass.gov/dob)

### **U.S. Department of Housing and Urban Development (HUD)**

Resources include HUD approved counseling  
organizations

(800) 569-4287 or (800) 877-8339 TTY

[www.hud.gov/counseling](http://www.hud.gov/counseling)

